

COMPLAINT FOR DAMAGES

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California and the County of Orange, and is in good standing with the Secretary of State of the
State of California, and is qualified to do business in the State of
California and the County of Orange, and is a corporation duly organized and existing under and by
virtue of the laws of the State of California, and is qualified to do business in the State of

1. Plaintiff TRICOR is a corporation duly organized and existing under and by

GENERAL ALLEGATIONS

Plaintiff TRICOR AMERICA, INC. (hereinafter referred to as "TRICOR"), for causes of
action against defendants and each of them alleges as follows:

Plaintiff TRICOR AMERICA, INC. (hereinafter referred to as "TRICOR"), for causes of
action against defendants and each of them alleges as follows:

Defendants.

1. Breach of Contract
2. Account Stated
3. Quantum Meruit
4. Negligent Misrepresentation

DHLCANADA EXPRESS, LTD., a Canadian corporation; LOOMIS CANADA HOLDING
COMPANY, INC., a Canadian corporation; and
DOES 1 through 25, inclusive.

v.s.

Plaintiffs,

TRICOR AMERICA, INC., a California
corporation,

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

Attorney for Plaintiff
TRICOR AMERICA, INC.

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COMPLAINT FOR DAMAGES

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5. Plaintiff is informed and believes, and thereupon alleges, that defendant DHL EXPRESS (CANADA), LTD. (hereinafter referred to as "DHL EXPRESS") is corporation organized and existing under and by virtue of the laws of the nation of Canada. Plaintiff is informed and believes, and thereupon alleges, that defendant DHL EXPRESS maintains its principal place of business in the City of South San Francisco, in the County of San Mateo, California.

2. Plaintiff is informed and believes, and thereupon alleges, that defendant DHL EXPRESS (CANADA), LTD. (hereinafter referred to as "DHL EXPRESS") is corporation organized and existing under and by virtue of the laws of the nation of Canada.

3. Plaintiff is informed and believes, and thereupon alleges, that defendant LOOMIS CANADA HOLDING COMPANY, INC. (hereinafter referred to as "LOOMIS") is a corporation organized and existing under and by virtue of the laws of the nation of Canada.

4. The true names and capacities, whether individual, corporate, associate or otherwise of the defendants named herein as DOES 1 through 25, inclusive, and each and all of them are unknown to TRICOR at this time, and TRICOR therefore sues said defendants and each and all of them, by such fictitious names, and TRICOR will advise this Court and seek leave to amend this Complaint when the names and capacities of each such defendant have been ascertained. TRICOR is informed and believes, and thereupon alleges that each said defendant herein designated as a DOE defendant is responsible in some manner for the events and happenings herein referred to, or as hereinafter alleged.

5. TRICOR is informed and believes and thereupon alleges, that at all times herein mentioned, each and every defendant, including DOES 1 through 25, inclusive, and each of them, was, were, and yet are the agents or employees of the other named defendants and each of them, that in so doing the things herein alleged said defendants, and each and all of them, were acting in within the course and scope of the authority conferred by, and with the consent of, each other defendant, and all of them jointly.

COMPLAINT FOR DAMAGES

1. **Againts Defendants DHL EXPRESS AND LOOMIS And Does 1 Through 25**

6. By this reference, TRICOR herein incorporates each and every allegation of paragraphs 1 through 5, inclusive of the General Allegations of this Complaint as if the same were set forth in full herein.

7. On or about March 2, 1984, TRICOR, on the one hand, and DHL CANADA and LOOMIS entered into an agreement wherein TRICOR agreed to provide courier services to the Defendants agreed to pay of the courier services pursuant to agreed upon credit terms ("Agreement"). Pursuant to the Agreement, TRICOR issued written purchase orders for each request from the Defendants. Each written sales contract issued to the Defendants pursuant to the Agreement contained the same terms and conditions. (A true and correct copy of a representative example of the sales contract is attached hereto as Exhibit "A", and is incorporated herein by this reference as though fully set forth.)

8. Since entering into the Agreement, TRICOR has received numerous orders for courier services from the Defendants, and has provided services to the Defendants pursuant to the agreed-upon credit terms.

9. TRICOR performed all conditions covenants, and promises required of it under the Agreements.

10. Yet on or about January 1, 2007, and continuing to date, the Defendants and DOES 1 through 25, and each of them, breached the Agreement by failing to pay \$ 146,193.26 due under the Agreement for courier services ordered and provided to it by TRICOR pursuant to the Agreement. The Defendants refused to pay \$ 146,193.26 without any explanation.

11. TRICOR is informed and believes that the Defendants knowingly and willfully continued to order courier services from TRICOR with the intention of withholding the \$ 146,193.26 payment, with the sole purpose of creating economic leverage to attempt to negotiate concessions from TRICOR.

COMPLAINT FOR DAMAGES

28. Paragraphs 1 through 17, inclusive, of this Complaint as if the same were set forth in full herein.
 27. By this reference, TRICOR herein incorporates each and every allegation of
 26. Agamist DHL EXPRESS and LOOMIS And Does 1 Through 25
 25. (Quantum Meruit)

THIRD CAUSE OF ACTION

17. By reason of the conduct of said defendants, and each of them, TRICOR has incurred attorneys' fees and costs, and will continue to incur said fees and costs to enforce its rights under the Agreements. TRICOR is entitled to reasonable attorneys' fees and costs pursuant to California Civil Code Section 1717.
 16. As a result, due to said defendants' breach of the Agreements as aforesaid there is now due, owing, and unpaid from said defendants to TRICOR the sum of \$ 146,193.26, together with interest thereon at the legal rate.
 15. Although demanded of the Defendants, neither the whole nor any part of the agreed balance has been paid.

14. Defendants and Does 1 through 25 and on such statement a balance of \$ 146,193.26 was found due to TRICOR from said defendants. Defendants and each of them agreed to pay TRICOR said balance.

13. Within four years before the commencement of this action, at San Mateo, California, an account was stated in writing by and between TRICOR and defendants the Defendants and Does 1 through 25 and on such statement a balance of \$ 146,193.26 was found due to TRICOR from said defendants. Defendants and each of them agreed to pay TRICOR said balance.

12. Paragraphs 1 through 12, inclusive of this Complaint as if the same were set forth in full herein, TRICOR has been damaged in the sum of \$ 146,193.26, and more according to proof.

11. By this reference, TRICOR herein incorporates each and every allegation of
 10. Agamist DHL EXPRESS, LOOMIS And Does 1 Through 25
 9. (Account Stated)

SECOND CAUSE OF ACTION

8. Paragraphs 1 through 12, inclusive of the Agreement by defendants and each of them,
 7. As a result, due to the breach of the Agreement by defendants and each of them,
 6. TRICOR has been damaged in the sum of \$ 146,193.26, and more according to proof.
 5. Agamist DHL EXPRESS, LOOMIS And Does 1 Through 25
 4. (Account Stated)

COMPLAINT FOR DAMAGES

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28. assurancex, TRICOR would not have continued to perform services for the Defendants.
 27. were false and that the Defendants had no intention of fulfilling its promises, representations and assurances to be true. Had TRICOR known that the promises, representations, and assurances
 26. assurances that payment would be made, TRICOR believed the promises, representations, and assurances to be true.
 25. At the time that the Defendants conveyed its promises, representations and assurances behalf.
 24. compensation TRICOR for the services it rendered to the Defendants' clients on the Defendants'
 23. such representations to be true, as the Defendants had no intention of making any payment to
 22. Defendants that payment would be made, the Defendants had no reasonable grounds for believing
 21. assurances that payment would be made, the Defendants conveyed its promises, representations, and
 20. TRICOR.
 19. At the time that the Defendants conveyed its promises, representations, and
 18. assurances that payment would be made, the Defendants had no intention of making payment for the services rendered by
 17. false, as the Defendants had no intention of making payment for the services rendered by
 16. Defendants that payment would be made for the services rendered, such representations were
 15. perhaps 1 through 25, inclusive, of this Complaint as if the same were set forth in full herein.
 14. At the time that the Defendants conveyed its promises, representations and every allegation of
 13. By this reference, TRICOR herein incorporates each and every allegation of
 12. **Against DHL EXPRESS And Does 1 Through 25**
 11. (**Negligent Misrepresentation**)
 10. **FOURTH CAUSE OF ACTION**

8. of them, to TRICOR the sum of \$ 146,193.26.
 7. therefore has been made, and there is now due, owing and unpaid from said defendants, and each
 6. of them at the special request and instance of said defendants, and each of them, and each
 5. Neither the whole nor any party of the above sum has been paid, although demand
 4. TRICOR in for an agreed sum of \$ 146,193.26 for services rendered to said defendants, and each
 3. EXPRESS, LOOMIS, DOES 1 through 25, inclusive and each of them became indebted to
 2. Within the last two years, at South San Francisco, California, defendants DHL
 1.

COMPLAINT FOR DAMAGES

Dated: 9-20-07

1. For damages in the sum of \$146,193.26 and more, according to proof.

2. For prejudgment interest on said sum at the maximum legal rate;

3. For reasonable attorneys' fees;

4. For costs of suit incurred by TRICOR herein; and

5. For such other and further relief as this court may deem just and proper.

ON ALL CAUSES OF ACTION

Laura Bach Nguyen
Attorney for Plaintiff
TRICOR AMERICA, INC.

WHEREFORE, Plaintiff TRICOR prays for judgment against Defendants and Does 1 through 25, inclusive as follows:

30. As a direct, legal and proximate result of the Defendants' fraudulent conduct and false representations and its failure to pay TRICOR for the services rendered, TRICOR has been damaged in an amount in excess of \$ 146,193.26.